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Summary record of the 13th meeting
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Chairman: Mr. Chowdhury ..... (Bangladesh)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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(a) Financing of the United Nations peacekeeping operations

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The meeting was called to order at 10.10 a.m.

Agenda item 116: Proposed programme budget for the biennium 1998-1999 (*continued*) (A/52/6/Rev.1, vol. I and II, A/52/7, A/52/16, A/52/278, A/52/303 and Corr.1 and A/52/379; A/C.5/51/53)

1. **Mr. Konishi** (Japan) observed that the proposed level of the programme budget for the biennium 1998-1999 was US$ 2,583 million, which represented negative nominal growth as compared with the revised 1996-1997 appropriations. While his delegation welcomed that fact, budget cuts should not be an end in themselves, but the result of the Organization's efforts to respond to the wishes of the international community by functioning as efficiently and effectively as possible. It was not an easy task, but many Governments were making similar efforts to substantially cut their budgets while carrying out radical administrative reforms. His Government, for example, was working to reduce its financial deficit, from the current level of 5.4 per cent of GDP to less than 3 per cent by the year 2003.

2. The proposed programme budget included US$ 12.7 million for the development account which was to be established within the context of the reforms announced by the Secretary-General in March and July 1997. His delegation supported the introduction of a separate budget item indicating the level of the resources derived from savings in administrative and non-programme costs which were to be redirected to the implementation of important economic and social programmes. Member States must agree upon the *modus operandi* of the scheme and the programmes to be implemented. His delegation was awaiting with interest clarification from the Secretariat as to the composition of the "non-programme costs" and the specific programmes to be financed from the development account. There was a need to examine carefully in that regard the Secretary-General's proposal that, at the end of the current biennium, the unused budgetary surpluses should be transferred to the development account since part of those monies would come not from increased efficiency, but from favourable developments in the exchange rate. In principle, in the latter instance, funds should be returned to Member States in accordance with the current rules and regulations. Similarly, it was his delegation's preliminary view that any additional savings resulting from the continued strength of the dollar should not automatically lead to payments to the development account.

3. Under the original proposal for the forthcoming biennium, the total number of posts would be reduced from 10,012, the number approved for the current biennium, to 8,839, and that number might be as low as 8,695 if Member States accepted the proposed reforms. While staff costs accounted for two thirds of the total budget, and any budget cuts would thus inevitably have a substantial impact on the number of posts, care should be taken to minimize the adverse impact on programme implementation and staff morale. Although outsourcing had some advantages, for example where consultants and experts or the recruitment of temporary staff were concerned, such decisions should be made on a case-by-case basis, after a thorough cost-benefit analysis.

4. Specific measures were necessary to rectify the clear under-representation of Japanese nationals among the Organization's staff. National competitive examinations were a very useful means of enhancing the equitable geographical distribution of staff. The proposal to abolish one P-4 post and one General Services post in the Examinations and Tests Section was therefore a cause for concern. His delegation urged that the national competitive examination programme should not be adversely affected by that proposal. It was also concerned at the proportionately greater reduction of entry-level posts, at grades P-1 to P-3, since that might restrict still further the chances of recruiting qualified young candidates. With regard to the search for the best grade structure, he hoped that every effort would be made to ensure that, upon completion of the reforms, the Organization had a streamlined Secretariat.

5. Several technical points remained to be clarified with respect to the new concept of "net budgeting", as the Advisory Committee on Administrative and Budgetary Questions (ACABQ) had noted. Member States should also consider more carefully the current "recosting" mechanism, taking into account the risk that the movement of exchange rates might adversely affect the real level of resources in the budget, requiring the Organization's activities to be greatly reduced.

6. The General Assembly had commenced its debate on the comprehensive reforms proposed by the Secretary-General. He hoped that those deliberations would be conducted in an efficient manner with a view to providing the guidance required by the Fifth Committee. The latter would be called upon, within the context of its consideration of the proposed programme budget for the biennium 1998-1999, to consider measures having budgetary implications, on the basis of the Advisory Committee's reports.

7. Even if Member States were able to agree on the best possible programme budget, it would not be possible to implement it unless the Organization was provided with a sound financial base and adequate resources. His delegation

therefore appealed to Member States to do everything within their power to fulfil the financial obligations incumbent upon them under the Charter of the United Nations.

8. **Ms. Odinga** (Kenya) said that her delegation wished to associate itself with the statement made at the previous meeting by the representation of the United Republic of Tanzania on behalf of the Group of 77 and China. The fact that the Secretary-General had personally presented his proposed programme budget testified to the importance he attached to the work of the Committee. As noted by the Advisory Committee in its report, General Assembly resolution 41/213 remained the basic framework for the approval of the budget.

9. While budget cuts were useful, due consideration should be given to their potential adverse effects. In the case of the United Nations Environment Programme (UNEP), its representation in numerous international forums had been cut back; new initiatives had been impeded; and the transfer of experience and technologies delayed. Also, there had been a decline in the capacity of UNEP to advise countries in transition on priorities to be respected and opportunities for action.

10. The funds allocated to UNEP represented a 17 per cent reduction with respect to the allocation originally approved for 1996-1997 (US$ 90 million). The proposed reduction clearly ran counter to the spirit of Agenda 21, in which the international community emphasized the need to strengthen the role of UNEP. The same was true of the United Nations Centre for Human Settlements (Habitat), which had seen its resources dramatically cut. Her delegation hoped, however, that the General Assembly's consideration of those issues would have a favourable outcome. She welcomed in that regard the new measures aimed at strengthening and restructuring the two organizations, which had been undertaken by the Secretary-General on the basis of General Assembly resolutions 2997 (XXVII) and 32/162, as well as the decisions and recommendations of the Governing Council of UNEP and the Commission on Human Settlements.

11. With regard to the reduction in staff costs, her delegation noted that it had been necessary to maintain a significantly higher vacancy rate than that originally anticipated. She wished to emphasize the need to examine the proposed reductions in detail, particularly with respect to entry-level grades, in order to avoid any further negative implications for the implementation of mandated programmes and activities.

12. **Mr. Ovia** (Papua New Guinea) said that his delegation also associated itself with the statement made the previous day by the representative of the United Republic of Tanzania on behalf of the Group of 77 and China under agenda item 116.

13. The United Nations had been instrumental in bringing the issue of decolonization to the forefront of the international agenda, through the mechanism of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and his delegation was therefore pleased that cost savings on earlier travel by the Special Committee had been reinstated. He noted with concern, however, that it was proposed to reduce by two the staff of the Information Unit on Decolonization, despite the critical importance of ensuring that the Special Committee, which had been established by the General Assembly, would be adequately serviced.

14. In its resolution 51/219 dated 18 December 1996, the General Assembly had adopted the medium-term plan for the period 1998-2001, and, consequently, subprogramme 1.6, Decolonization, of programme 1, Political affairs, thereby confirming (if there had been any doubt) that decolonization was political by nature. The delegation of Papua New Guinea doubted whether the Information Unit on Decolonization would be able to carry out the mandates approved by the General Assembly if the administrative and technical changes proposed by the Secretary-General (A/52/303, para. 1B.2) to move the Unit into the Department of General Assembly Affairs and Conference Services were carried out.

15. In conclusion, he hoped that the integrity of the Organization would be maintained, despite the grave financial crisis caused by the failure on the part of its Members to honour their legal financial obligations.

16. **Mr. Kabir** (Bangladesh) said that his delegation also wished to associate itself with the statement made by the representative of the United Republic of Tanzania on behalf of the Group of 77 and China.

17. Over the previous few years, the main thrust of the Organization had been savings and staff reductions and the budget proposals clearly reflected those priorities. The delegation of Bangladesh, like other delegations, supported any reasonable initiative aimed at reducing the expenses of the Organization. But efforts to achieve savings could not be an end in itself or an excuse to avoid the obligation to implement the programmes and activities mandated by Member States. During the presentation of the previous programme budget, it had been stated that savings measures would not affect the implementation of mandated programmes and activities. However, the report of the

Secretary-General on the impact of those measures (A/C.5/51/53) clearly demonstrated the adverse impact on the activities of the Organization, including in a number of areas that were of vital importance to the developing countries, particularly the least developed among them. In the light of that experience, it might be wondered whether any tangible benefits could be achieved by aggressively pursuing the objective of more savings during the next biennium.

18. Staff reduction through the abolition of posts was another preferred area of attention in the proposed programme budget for the biennium 1998-1999. Bangladesh had no reason to question the Secretary-General's justifications for the reduction in staff, but it was surprised at how confident he was when he stated that the process would not affect programme delivery. His delegation was not sure either that the objective of a 5 per cent vacancy rate for staff in the Professional category and 2.5 per cent for staff in the General Service category could be fully achieved. Bangladesh also found it contradictory that the Secretariat was proposing to reduce staff while at the same time submitting an increased request under provisions for consultants and experts. In that connection, it supported the recommendation contained in paragraph 83 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/52/7).

19. A reading of the budget proposal indicated that major cuts in posts had been proposed in the areas of international cooperation for development and regional cooperation for development. The delegation of Bangladesh was not sure how the increased allocations requested for those areas could be handled effectively by a reduced number of staff. It shared the observations made by the Advisory Committee in paragraph 72 of its report that the Secretary-General needed to justify the proposed reductions in the same manner as he would justify increases.

20. The cash deficit forecast for the current financial year was also discouraging. Every budgeting process presupposed the availability of the financial resources required for programme implementation. Unfortunately, there was currently no indication of the existence of predictable flows of resources to support the budget of the Organization, due to the non-fulfilment of their financial obligations by certain Member States, notably the major contributor. Bangladesh therefore urged the defaulting Members to fulfil their obligations under the Charter by paying their dues on time and in full.

Agenda item 123: Financing of the United Nations Angola Verification Mission (A/51/494/Add.3, A/52/385 and Corr.1 and A/52/478)

21. **Mr. Hosang** (Director of the Peacekeeping Financing Division) said that the report on the financial performance of the United Nations Angola Verification Mission (UNAVEM III) for the period from 1 January to 30 June 1996 showed an unencumbered balance of approximately $18.9 million gross. That balance should be taken in conjunction with the amounts indicated in the previous performance report for the period ending 31 December 1995, since certain amounts had been rolled over.

22. The proposed budget for the United Nations Observer Mission in Angola (MONUA) for the period from 1 July 1997 to 30 June 1998 was in the amount of $162.1 million. Of that amount, non-recurrent expenses accounted for only $4 million. Because of the transition of UNAVEM III to MONUA, recurrent expenses were not evenly distributed over the period under review. The transition provided for the repatriation of 167 military observers, approximately 3,400 contingent personnel, 86 international staff and a small number of United Nations Volunteers. The staff of MONUA itself would consist of 86 military observers, 170 contingent personnel and 345 civil police observers.

23. The Secretariat had taken note of the recommendations of the Advisory Committee on Administrative and Budgetary Questions, including the recommendation of a reduction of nearly $7 million in the Secretary-General's estimates. He wished to make the following comments to clarify three matters that had been raised by the Advisory Committee: firstly, the posts of Deputy Special Representative of the Secretary-General and of Chief Administrative Officer were not new. They had been established for UNAVEM III and their classification corresponded to the levels indicated in the report, namely, Assistant Secretary-General and D-1. Secondly, the reclassification from P-5 to D-1 of the post of Head of the Human Rights Division was justified by the increase in the responsibilities which the holder would have to assume as a result of the establishment of 18 provincial human rights offices. The D-2 classification sought for the post of Chief Military Officer was justified by the expected appointment to that post of a major general. Finally, the post of Police Commissioner had been recently reclassified from P-5 to D-1.

24. He also wished to draw the Committee's attention to paragraphs 15 and 43 of the most recent report which the Secretary-General had submitted to the Security Council (S/1997/807) in which the Secretary-General indicated that it would be advisable to postpone slightly the drawdown of

United Nations troops. If approved by the Security Council, the extension would give rise to additional expenses for MONUA. With the reduction recommended by the Advisory Committee, the Mission's budget would be very tight and the Secretariat could be forced to again request the General Assembly and the Advisory Committee at a later stage to appropriate additional funds.

Agenda item 133: Financing of the United Nations Observer Mission in Liberia (A/52/401 and A/52/451)

25. **Mr. Hosang** (Director of the Peacekeeping Financing Division) recalled that the General Assembly had approved credits amounting to some $20.4 million gross for the United Nations Observer Mission in Liberia (UNOMIL). Following the elections and the forming of a Government, the Mission's mandate had come to an end and the Secretary-General had submitted a new budget proposal containing revised estimates for the withdrawal and administrative liquidation of the Mission. In paragraph 24 of his report (A/52/401), the Secretary-General had requested an appropriation of some $9 million and assessment of an additional $3.8 million, taking into account the amount already authorized. The Secretariat noted that the Advisory Committee was not amenable to the assessment of additional funds at present: it presumed that the Committee would return to that matter when the budget performance report was presented should an assessment prove necessary.

Agenda item 142: Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations:

(a) Financing of the United Nations peacekeeping operations (A/51/903, A/51/967 and Corr. 1 and 2 and A/52/410)

Reform of the procedures for determining reimbursement to Members States for contingent-owned equipment

26. **The Chairman** recalled that at the Committee's sixth meeting on 6 October, the representative of the Netherlands had requested clarification from the Legal Counsel regarding certain matters relating to the procedures for determining reimbursement to Member States for contingent-owned equipment. In response to a letter which he (the Chairman) had sent him on 7 October, the Legal Counsel had answered the questions raised by the Netherlands representative, in a letter dated 22 October.

27. **Mr. Rashkow** (Office of Legal Affairs) read out the Legal Counsel's letter saying that the Counsel had noted that the Government of the Netherlands was concerned with the statement, made in paragraph 2 of the Secretary-General's note on the reform of the procedures (A/51/967 and Corr.1 and 2), that the model Memorandum of Understanding set forth "legally binding rights and obligations" which would, upon conclusion, be legally binding upon the parties. The Government of the Netherlands had observed that, according to Netherlands constitutional practice, a Memorandum of Understanding usually expressed a non-legally binding political commitment and could, therefore, be signed and implemented without parliamentary approval or the procedures applicable to legally binding international instruments such as treaties or conventions. *A contrario*, the model Memorandum of Understanding would require the approval of the parliaments of Member States, which would entail unnecessary delays in the deployment of the equipment to peacekeeping operations. The representative of the Netherlands had proposed that the word "parties" in the model Memorandum of Understanding should be replaced by "participants", that the word "shall" in the English text should be replaced by "will" and that paragraph 13.3, which referred to arbitration as one of the methods for resolving disputes between the parties, should be deleted.

28. The Legal Counsel had recalled that, as had been stated in the Secretary-General's note (A/51/967 and Corr.1), in whatever form the arrangements with the contributing States were concluded, they were intended to create legally binding rights and obligations between the contributing country and the United Nations. In accordance with the United Nations Financial Regulations and Rules, reimbursement by the United Nations to the contributing States for the use of contingent-owned equipment was effected on the basis of legal obligations. While different national systems could impose different formalities for approving an agreement creating rights and obligations such as those in the model Memorandum of Understanding, under international law, irrespective of the form, an agreement between two States creating legally binding rights and obligations was a treaty in accordance with the Vienna Convention. However, many of the arrangements for the use of and reimbursement for contingent-owned equipment, as set out in the model Memorandum of Understanding, could be viewed as dealing with administrative, financial and operational matters. The model Memorandum of Understanding should not be regarded as a treaty subject to the formalities required by national laws. Unlike a treaty, it would not be registered with the United Nations Secretariat as a treaty to which the United Nations was a party. However, that in no way detracted from the fundamental nature of the model Memorandum of Understanding as a document creating legal rights and obligations.

29. With regard to the proposals by the representative of the Netherlands for changes to the text, the Legal Counsel noted that the text currently before the Committee was a model text. As such, the actual contents of the agreement might depart in some respects from the model text, subject to negotiation between the Secretariat and individual contributing States. At the same time, it should be remembered that the model Memorandum of Understanding had been drawn up on the basis of the reports and recommendations of the ad hoc Working Group established by the General Assembly and that, in any event, such variations would not alter the fundamental rights and obligations reflected in the model Memorandum of Understanding.

30. The Legal Counsel had concluded that, in view of those considerations, the changes in wording proposed by the representative of the Netherlands posed no legal difficulties. On the other hand, the proposal that reference to arbitration should be deleted from the Memorandum of Understanding would deprive Member States of a readily available mechanism for the resolution of differences between parties in cases where amicable negotiation had failed.

31. **Mr. Watanabe** (Japan), speaking as the representative of a country participating in peacekeeping operations in the context of the United Nations Disengagement Observer Force (UNDOF), said that in Japan the model Memorandum of Understanding might be viewed as similar to a treaty, in other words as an international instrument requiring ratification by the Parliament. Since that process took about six months, there was a possibility that Japan might be unable to quickly make the necessary arrangements to provide logistical support to UNDOF. There was no point in rushing into things since the issue of reimbursement procedures was soon to be considered by the Working Group. The Secretariat must demonstrate a certain measure of flexibility, taking account of the diverse legal systems of States participating in peacekeeping operations.

32. **Mr. Boschert** (Germany) said that his delegation shared the concerns of the representative of the Netherlands about the comments in paragraph 2 of the Secretary-General's note (A/51/967). He took note of the Secretariat's explanation.

33. **Ms. Daes** (Greece) said that the Legal Counsel had responded well to the questions from the representative of the Netherlands. Her delegation supported his remarks on the desirability of retaining the arbitration procedure. That procedure could prove useful when others had failed.

34. **Mr. Sulaiman** (Syrian Arab Republic) returned to a question his delegation had raised during informal consultations. The Secretary-General had indicated in his reports on UNDOF that no agreement had been reached with Syria on the status of the Observer Force. In 1976, the latter country had addressed a letter to the United Nations, with an annex reproducing the text of a Presidential decree on the status of that force. Should that letter be considered as a memorandum of understanding, and, if not, what was its legal status?

35. **Mr. Rashkow** (Office of Legal Affairs) said that, unfortunately, he was not able to answer that question. The issue raised by the Syrian Government had been forwarded to the Office of Legal Affairs, but it required coordination with the Department of Peace-keeping Operations. He would do what was necessary to ensure that an answer was provided as soon as possible.

The meeting rose at 11.20 a.m.